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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Butte)

In re C.M., a Person Coming Under the
Juvenile Court Law.

BUTTE COUNTY DEPARTMENT OF EMPLOYMENT
AND SOCIAL SERVICES,

Plaintiff and Respondent,

v.

H.M.,

Defendant and Appellant.

C069107

(Super. Ct. No.
J-33374)

H.M., mother of the minor, C.M., appeals from orders of the juvenile court denying her petition for modification and terminating her parental rights.¹ (Welf. & Inst. Code, §§

¹ Appellant asks the court to amend the notice of appeal to include both the orders denying her petition for modification and the order terminating parental rights, both of which were made at the hearing. No amendment is necessary since the second page of the notice of appeal clearly identifies the appeal is taken from both orders. Therefore, the request is denied.

366.26, 388, 395 [further undesignated statutory references are to the Welfare and Institutions Code].) Appellant argues she did not forfeit the issue of the applicability of the benefit exception by failing to raise it in the trial court and that the evidence established that termination would be detrimental to the minor because he would benefit from continued contact with her. We conclude the issue was forfeited for failure to raise it in the juvenile court and affirm.

FACTS

The three-year-old minor was removed from appellant's custody in October 2010 due to appellant's substance abuse which led to a vehicle accident in which the minor was injured. The juvenile court denied appellant services pursuant to section 361.5, subdivision (b)(13) because the evidence showed she had a history of extensive, abusive and chronic use of drugs and had resisted prior court-ordered treatment for the problem within three years prior to the filing of the current petition. The minor was previously detained from appellant because of her substance abuse and was reunified but appellant relapsed, resulting in the current petition.

The California Department of Social Services and the Butte County Department of Employment and Social Services (the Department) both assessed the minor as adoptable. Both agencies concluded the minor, who was in a relative adoptive placement, needed permanence.

Appellant filed a petition for modification seeking family maintenance or family reunification services, alleging that she

was in an inpatient treatment facility and the minor could live with her there. She alleged the change was in the minor's best interest because he had a significant bond with her.

At the hearing, appellant testified she was in residential treatment and, while she no longer resided in a place where she could do family maintenance services, she could participate in family reunification services. She testified she had been successful in reunifying with the minor before and wanted the opportunity to do so again. Appellant candidly admitted her history of substance abuse, relapses and domestic violence and her current determination to stay clean. Appellant's counsel argued appellant had changed her circumstances by entering residential treatment. Further, she successfully reunified before and the minor knew her and was bonded to her.² Counsel

² Counsel's entire argument was: "Your Honor, the Court's asking the mother [sic] to allow her to have services. She's taken the step of getting herself into the Skyway House, and she intends to go into the Salvation Army Program. [¶] A couple of things in her favor. First of all, she successfully went through services and got her child back prior to this. [¶] Her child is over the age of four. She spent three years with the child. There's no issue, there's no question of whether or not the child knows her or is bonded to her. [¶] She's relatively young. [¶] She has managed to derail herself from addiction for three years previous to now. She obviously was influenced by other persons. She was -- she did indicate that there was an unfortunate situation with her husband. [¶] I think it would be fair to say that many of us might have speculated that miscarriage was caused by drugs. She's indicating that wasn't the case. [¶] So my plan is asking the Court to consider offering her some services at this point in time. If the court isn't so inclined, my client would object to the recommendation of [the Department]. She objects to having her parental rights

generally objected to termination of parental rights. The court denied the petition for modification because there was insufficient evidence that changing the order was in the minor's best interests. The court adopted the recommended findings and orders and terminated parental rights.

DISCUSSION

Appellant does not challenge the order denying the petition for modification, but argues that counsel's reference to the minor's bond with appellant when arguing that the minor's best interests would be served by the proposed change in order constituted a reference to the benefit exception to avoid termination.

In dependency proceedings, nonjurisdictional issues must be the subject of objection or appropriate motions in the juvenile court; otherwise those arguments are waived and may not be raised for the first time on appeal. (*In re Christopher B.* (1996) 43 Cal.App.4th 551, 558; *In re Dakota S.* (2000) 85 Cal.App.4th 494, 501-502.)

It is clear from the text of counsel's argument that the reference to a bond between the minor and appellant was solely to show that the proposed modification was in the minor's best interest. There was no mention of an exception to the preference for adoption, only a general objection to termination of parental rights.

terminated and having her child placed in a plan of adoption.
[¶] Submitted."

To establish the beneficial relationship exception, the parent must show regular visitation and that continued contact would confer such a significant benefit on the minor as to outweigh the benefit of a permanent and stable adoptive home. (§ 366.26, subd. (c)(1)(B)(i); *In re Autumn H.* (1994) 27 Cal.App.4th 567, 575.) The mere existence of a parent/child bond is not enough. (*In re Beatrice M.* (1994) 29 Cal.App.4th 1411, 1418-1419.)

No reasonable adversary or court could have construed the argument and the general objection to termination of parental rights by appellant's counsel as raising the issue of the beneficial relationship exception to termination. It is illegitimate to permit appellant to argue an issue on appeal which was not tendered in the juvenile court, accordingly the issue of the existence of the beneficial relationship exception has been forfeited. (*In re Christopher B., supra*, 43 Cal.App.4th at p. 558.)

DISPOSITION

The orders of the juvenile court are affirmed.

NICHOLSON, J.

We concur:

BLEASE, Acting P. J.

BUTZ, J.